

Assembly Bill No. 2834

CHAPTER 937

An act to amend Sections 48915.1 and 48916.1 of, to add Section 48915.01 to, and to repeal and add Section 48661 of, the Education Code, and to amend Section 9 of Chapter 974 of the Statutes of 1995, relating to pupils, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1996. Filed
with Secretary of State September 26, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2834, Friedman. Pupils: expulsion: alternative placement.

(1) Existing law prohibits community day schools from being situated on a comprehensive schoolsite unless the county superintendent of schools certifies that no alternative program of study is available at a site away from a comprehensive schoolsite. Existing law generally prohibits the governing board of a school district from referring an expelled pupil to a program of study that is situated on specified comprehensive schoolsites.

This bill would repeal the siting provision and instead prohibit a community day school from being situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of specified school districts certifies by a $\frac{2}{3}$ vote of its membership that no satisfactory alternative facilities are available for a community day school. The bill would also permit the governing board to refer expelled students to that community day school if specified conditions are met.

(2) Existing law provides a procedure to be followed when an individual who has been expelled from a school district for causing serious physical injury to another person, possessing a knife, explosive or certain other dangerous objects, unlawfully possessing a controlled substance, or committing robbery or extortion, requests enrollment in another school district.

This bill would apply those procedures also to an individual who is expelled for possessing, selling, or otherwise furnishing a firearm, brandishing a knife at another person, and unlawfully selling a controlled substance.

(3) Existing law requires the governing board of a school district to maintain outcome data on those pupils who are expelled for any reason and who are enrolled in education programs operated by the school district, the county superintendent of schools, or as otherwise

authorized, and to report the data, upon request, to the State Department of Education.

This bill would prohibit the Superintendent of Public Instruction from apportioning specified funds to a district that does not report the data, as specified, until the district complies with the above-referenced requirements. The bill would require the Superintendent of Public Instruction to provide written notice, as specified, before withholding the apportionment of funds.

(4) Existing law requires the governing board of a school district, at the time a pupil is expelled, to ensure an education program is provided to the expelled pupil, and provides that the program may include independent study. Existing law limits the governing board's duty to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

This bill would repeal the authority to offer independent study in the above-referenced circumstances, and would require, irrespective of the extent of funding, that the governing board of a school district for specified pupils at the time of their expulsion ensure an education program is provided for them. To the extent the bill would thereby impose new duties upon local education entities, this bill would impose a state-mandated local program.

(5) Existing law, which is uncodified, delays the implementation of the provisions of Chapter 974 of the Statutes of 1995, except for specified expelled pupils, to the extent funds are appropriated for its purpose in the annual Budget Act, or other legislation, or both. Existing law also specifies a similar condition in specific codified sections of law relating to community day schools and other programs for expelled students.

This bill would repeal the uncodified provision.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 48661 of the Education Code is repealed.

SEC. 2. Section 48661 is added to the Education Code, to read:

48661. (a) A community day school serving kindergarten or any of grades 1 to 6, inclusive, shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of a school district maintaining kindergarten or any of grades 1 to 6, inclusive, certifies by a two-thirds vote of its membership that no satisfactory alternative facilities are available for a community day school in those grades.

(b) A community day school serving any of grades 7 to 12, inclusive, shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment and maintaining any of grades 7 to 12, inclusive, certifies by a two-thirds vote of its membership that no satisfactory alternative facilities are available for a community day school in those grades.

(c) A certification made pursuant to subdivision (a) or (b) is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

SEC. 3. Section 48915.01 is added to the Education Code, to read:

48915.01. If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

SEC. 4. Section 48915.1 of the Education Code is amended to read:

48915.1. (a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall

respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

SEC. 5. Section 48916.1 of the Education Code is amended to read:

48916.1. (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an education program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only



to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) shall not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district.

(e) (1) Each school district shall maintain data as specified in this subdivision and report the data annually to the State Department of Education, commencing June 1, 1997, on forms provided by the State Department of Education. The school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion. When a school district does not report outcome data as required by this subdivision, the Superintendent of Public Instruction shall not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with the provisions of this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent of Public Instruction shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

SEC. 6. Section 9 of Chapter 974 of the Statutes of 1995 is amended to read:

Sec. 9. This act shall not become operative until July 1, 1996.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the changes proposed by this act in time to implement the provisions of Chapter 974 of the Statutes of 1995, it is necessary that this act take effect immediately.

